

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SOUTH FORK BAND COUNCIL OF WESTERN)	CASE NO. 3:08-cv-616-LRH(RAM)
SHOSHONE OF NEVADA, et al.,)	
)	
Plaintiff(s),)	MINUTES OF THE COURT
)	
vs.)	DATED: JANUARY 20, 2009
)	
U.S. DEPARTMENT OF INTERIOR, et al.,)	
)	
)	
Defendant(s).)	
_____)	
)	
BARRICK CORTEZ, INC.,)	
)	
Defendant/Intervenor.)	
_____)	

PRESENT: HONORABLE LARRY R. HICKS, U.S. DISTRICT JUDGE

Deputy Clerk: Rosemarie Miller Reporter: Margaret Griener

Counsel for Plaintiff(s): Roger Flynn and Jeff Parsons

Counsel for Defendant(s): Donna Fitzgerald, Sara Costello and Holly Vance

Counsel for Defendant/Intervenor: Francis Wikstrom, Michael Larsen, Michael McCarthy and Jeff Droubay

PROCEEDINGS: HEARING/PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION
(12)

10 10 a.m. Court convenes. The morning session of this hearing is held in Courtroom No. 6.

The Government preserves its objection to the presentation and consideration of testimony with regard to the Religious Freedom Restoration Act ("RFRA").

Oral argument is presented on defendant/intervenor's objection to the the admissibility of exhibits that are part of the administrative record. The Court finds that, for purposes of this hearing, the Court should be able to review all evidence presented regardless of its admissibility at trial. Mr. Wikstrom and the Government will be given the opportunity to renew their objections to any evidence that they deem inadmissible; all objections would be reserved for trial proceedings. Government's Exhibits 1 and 2 are admitted into evidence; plaintiffs' Exhibits 1 through 4 are admitted into evidence.

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vs.

U.S. Department of Interior, et al.

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Opening statements with regard to the RFRA claim are presented by Mr. Flynn, Mr. Wikstrom and Ms. Costello.

Shawn Collins, called on behalf of plaintiffs, is sworn and testifies on direct examination by Mr. Flynn.

12:06 p.m. Court stands at recess.

1:57 p.m. Court reconvenes. The afternoon session is held in Courtroom No. 3.

Shawn Collins, previously sworn, resumes the witness stand, testifies on cross examination by Mr. Wikstrom and Ms. Costello and is excused.

Ted Howard, called on behalf of plaintiffs, is sworn, testifies on direct examination by Mr. Flynn, cross examination by Mr. Wikstrom and Ms. Costello and redirect by Mr. Flynn. Mr. Howard is excused.

2:50 p.m. Court stands at recess.

3:08 p.m. Court reconvenes.

Plaintiffs' Exhibits 5, 6, 7 and 8 are admitted into evidence. Defendant/intervenor's Exhibit DI-105 is admitted into evidence.

Joyce McDade, called on behalf of plaintiffs, is sworn, testifies on direct examination by Mr. Flynn, cross examination by Mr. Wikstrom and Ms. Costello, redirect by Mr. Flynn and is excused. Exhibit DI-143 is admitted into evidence.

Plaintiffs rest.

Mr. Wikstrom renews defendant/intervenor's motion for judgment on the pleadings. The Court reserves ruling.

Defendant/Intervenor's Exhibits DI-141 and DI-142 are admitted into evidence.

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In response to Mr. Flynn's objection to the presentation of live testimony by witnesses who have signed declarations, the Court states it will not limit the presentation of evidence from either side, but cautions counsel with regard to the presentation of cumulative evidence.

This hearing is continued to January 21, 2009 at 9:00 a.m.

4:19 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Rosemarie Miller
Deputy Clerk